

SUPERIOR COURT
OF THE
STATE OF DELAWARE

JUDGES CHAMBERS
ALBERT J. STIFTTEL
PRESIDENT JUDGE

PUBLIC BUILDING
WILMINGTON, DE 19801

Local Civil Act
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ADMINISTRATIVE DIRECTIVE
of the
President Judge of the
Superior Court of the State of Delaware

#90-2

MOTION PRACTICE
IN NEW CASTLE COUNTY

Effective March 15, 1990:

The purpose of this directive is to clarify the motion practice which commenced with the September term of Court.

There are four ways to present a motion for decision by the Superior Court in New Castle County: stipulation; routine motion day; office conference; and full briefing.

STIPULATED MOTIONS

Matters to be presented by stipulation do not require the scheduling of an office conference. Motions in this category are often such things as motions to vacate the entry of a default judgment, to amend the complaint, to enter judgment pursuant to a settlement, or to dismiss as a result of a settlement. Such stipulated motions need only be noticed to the convenience of the Court. They will be presented to the Civil Office Judge for further consideration.

ROUTINE MOTION DAY

Motions for the entry of a default judgment under Rule 55, motions for leave to withdraw as counsel under Rule 90(b) and motions to compel discovery or for sanctions under Rule 37 will be heard by the Court at 2:00 p.m. on Fridays. No special scheduling will be needed for such motions. They should be noticed for presentation to the Court on Friday at 2:00. The Court will hear such motions in the order of their filing.¹

OFFICE CONFERENCE

All other motions will be heard by the Court on Tuesday and Thursday afternoons or such other times as the Court may designate. Appointments for the presentation of such motions can be obtained by calling Mrs. Mary Jane DeMatteis. Motions must be filed with the Prothonotary within two (2)

¹ The requirement of Rule 55 that the party against whom the judgment is sought shall be served with written notice of the application for judgment at least three (3) days prior to the hearing is not modified by this rule.

Motions to withdraw as counsel under Rule 90(b) shall be filed at least two (2) days before the time specified for the hearing in accordance with the general provisions of Rule 5.

The requirement of Rule 37 that a motion be filed at least ten (10) days prior to the date noticed for presentation is not modified by this rule. Nor is there any modification in the requirement that responsive pleadings not exceed four (4) pages and be filed at least three (3) days prior to the date noticed for presentation of the motion.

days of the time when the date is reserved. Motions not filed within two (2) days will be eliminated from the schedule.

Motions shall include authorities relied upon and shall not exceed four (4) pages in length on letter size paper. Unless there is no opposition, a responsive paper must be filed. A party wishing only to present oral argument at the office conference, without authority, must advise the Court of that intention by letter three days prior to the presentation of the motion. A party wishing to file a responsive pleading, with or without authorities, must do so three days prior to the presentation of the motion. For example, if a motion is to be presented on Tuesday afternoon, the responsive paper must be filed the prior Thursday; a motion to be presented on Thursday, must be responded to the prior Monday. Responsive pleadings shall not exceed four pages in length on letter size paper. If there is no responsive paper, either letter or pleading, as prescribed by this directive, the Court will deem the motion unopposed. In such a circumstance, the Court will exercise its discretion as to whether or not the office conference will be permitted.

Counsel may avoid an appearance by promptly advising the Court in writing if a motion is unopposed or withdrawn.

Otherwise, all parties to the litigation are required to appear at the office conference.

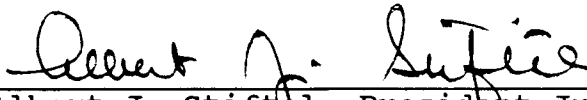
At the time of the office conference, the Judge will indicate that the matter can be decided on the papers filed, or will instruct the parties to file full briefing in accordance with Superior Court Civil Rule 107. The briefing schedule will be determined at the office conference.

FULL BRIEFING

If a Judge has determined after an office conference that full briefing is required the matter will be briefed and assigned to a Judge for decision by the Prothonotary's office. The Judge will advise the parties if oral argument is desired.

The Prothonotary's office is instructed to review motions filed to determine whether they meet the requirements of this directive and the Court's rules. If they do not comply, the motions are to be rejected. In particular, the Prothonotary is reminded that Rule 37 provides that no motion filed pursuant to Rule 26(c), 26(d) or 37 of the Superior Court Civil Rules shall be accepted by

the Prothonotary unless it includes a certification by the moving party regarding attempts to reach agreement on the subject of the motion.


Albert J. Stiftel, President Judge

Date: March 6, 1990

xc: All Superior Court Judges